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STAFF

CONF: EA/PAMSI/A INFO: C/ORMS, DC/EA, EA/LGL, EADORECORD, LIMITO, MDSX, ODPD, FILE, C/EA, EA/XO (3/P)

96 5536596 ASO PAGE 001
TOT: 272220Z SEP 96 DIRECTOR 960961

S E C R E T
STAFF 272220Z DIRECTOR 960961
TO: IMMEDIATE CANBERRA.

FROM: LIMIT EA/PAMSI/A INFO EA/LGL, CHIEF/EA, DC/EA

SLUGS: WNINTEL

SUBJECT: AUSTRALIAN DEMARCHE TO USG REGARDING US LEGISLATION ON DECLASSIFICATION

REF: NONE

TEXT:

1. ACTION REQUIRED: PLEASE FAX BY COB 2 OCT A COPY OF THE 1995 AUSTRALIAN DEMARCHE TO THE USG REGARDING LEGISLATION ON THE DECLASSIFICATION OF DOCUMENTS. ADDITIONALLY, WE WOULD APPRECIATE STATION'S RECOLLECTION OF LIAISON'S REACTION TO THE US LEGISLATION AS WELL.

* 2. THE<JOHN>F.<KENNEDY>REVIEW BOARD<(JFK>BOARD) ESTABLISHED
*BY THE PRESIDENT TO DECLASSIFY ALL DOCUMENTS RELATING TO THE<JOHN>
*F.<KENNEDY ASSASSINATION>HAS COME ACROSS TWO AUSTRALIAN DOCUMENTS (AND FOUR CIA DOCUMENTS) WHICH THEY WOULD LIKE TO DECLASSIFY WHICH REVEAL THE EXISTENCE OF AN AGENCY-AUSTRALIAN LIAISON RELATIONSHIP. THE REVIEW BOARD HAS BROAD AUTHORITY TO DECLASSIFY DOCUMENTS
*RELATED TO THE<JFK>COLLECTION REGARDLESS OF THEIR COUNTRY OF ORIGIN OR THE SENSITIVITY OF THE SUBSTANCE. IT HAS COME TO OUR ATTENTION THAT THE BOARD HAS REVIEWED THE TWO AUSTRALIAN DOCUMENTS AND THE FOUR CIA DOCUMENTS AND DEEMED THEM APPROPRIATE FOR RELEASE. GIVEN THE OBVIOUS SENSITIVITY OF OUR LIAISON RELATIONSHIP WITH AUSTRALIANS, OGC IN COORDINATION WITH EA/LGL AND EA/PAMSI, IS PREPARING A MEMO TO THE BOARD REQUESTING THEY NOT RELEASE THE FIRST TWO DOCUMENTS BECAUSE THE DOCUMENTS ARE THE PROPERTY OF THE AUSTRALIAN GOVERNMENT. INSTEAD WE ARE WILLING TO PROVIDE SUMMARIES OF THESE DOCUMENTS OMITTING ANY MENTION OF THEIR AUSTRALIAN ORIGIN OR OF THE EXISTENCE OF A RELATIONSHIP BETWEEN OUR TWO SERVICES. THE AGENCY DOCUMENTS WHICH MAKE REFERENCE TO OUR LIAISON RELATIONSHIP WOULD BE REDACTED TO TAKE OUT ALL REFERENCES TO AUSTRALIA.

* 3. IN OUR EFFORT TO PRESENT A SOLID CASE TO THE<JFK>BOARD, THE MEMO INCLUDES A STRONG ARGUMENT THAT EVEN APPROACHING THE AUSTRALIANS ON THE ISSUE OF DECLASSIFICATION OF AN AUSTRALIAN DOCUMENT WILL STRAIN OUR RELATIONSHIP WITH THEM. OUR ARGUMENT

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WILL ENUMERATE THE THE UNFAVORABLE REACTION THE AUSTRALIANS HAVE HAD TO RECENT DISCLOSURES AND AGENCY REQUESTS FOR PERMISSION TO DISCLOSE INFORMATION PASSED TO US BY THE AUSTRALIAN SERVICES. EXAMPLES WE INTEND TO CITE INCLUDE THE DUTY TO WARN ISSUE WHERE THE AUSTRALIANS WERE ADAMANT ABOUT NOT GIVING PERMISSION TO DISCLOSE THEIR INFORMATION BECAUSE OF SOURCE PROTECTION ISSUES, THE ASIS CONCERN ABOUT THE BOOK PUBLISHED BY A FORMER AGENCY EMPLOYEE THAT ALLUDES TO A LIAISON RELATIONSHIP WITH THE AUSTRALIANS, THE RECENT DEMARCHE EXPRESSING CONCERN THAT A FORMER AGENCY OFFICER ALLEGEDLY DISCLOSED CLASSIFIED AUSTRALIAN INFORMATION (AN ALLEGATION THE DDCI ASSURED THE AUSTRALIANS WOULD BE THOROUGHLY INVESTIGATED) AND THE DEMARCHE IN 1995 BY THE AUSTRALIAN GOVERNMENT RAISING CONCERNS ABOUT OUR U.S. DECLASSIFICATION LEGISLATION AND WHETHER THE LEGISLATION PROVIDES ADEQUATE GUARANTEES ABOUT NOT DISCLOSING INFORMATION PASSED TO US BY FOREIGN SERVICES WITHOUT EXPRESS AUTHORIZATION FROM SUCH FOREIGN SERVICES. WE WILL ALSO MAKE REFERENCE TO A RECENT APPROACH BY THE AUSTRALIANS ASKING FOR OUR OKAY IN THEIR DECLASSIFYING SOME OF OUR DOCUMENTS, AND OUR STRONGLY-WORDED RESPONSE DENYING PERMISSION AND ARGUING THAT SUCH DISCLOSURE WOULD BE A BREACH OF TRUST.

* 4. IN ORDER TO BOLSTER OUR POSITION WITH THE<JFK>BOARD, REQUEST STATION OBTAIN A HARD COPY OF THE AUSTRALIAN DEMARCHE ON THE DECLASSIFICATION LEGISLATION THAT CAN BE ATTACHED TO THE MEMO. WE BELIEVE THAT SUCH HARD COPY EVIDENCE FROM THE AUSTRALIANS WILL BOLSTER OUR ARGUMENT SIGNIFICANTLY. WE ARE UNABLE TO LOCATE THE ACTUAL TEXT OF THIS DEMARCHE IN HQS.

5. THE BOTTOM LINE HERE IS THAT WE DO NOT WANT EVEN TO APPROACH THE AUSTRALIANS ABOUT DECLASSIFYING THE AFOREMENTIONED DOCUMENTS. WE HOPE OUR MEMO CONVINCES THE BOARD THAT, IN LIEU OF RELEASING THE DOCUMENTS, SUMMARIES THAT OMIT ALL REFERENCE AUSTRALIA WILL SUFFICE.

6. FYI: OUR FALLBACK POSITION IF THE BOARD TURNS DOWN THE CONCEPT OF SUMMARIES, IS TO MAKE CLEAR THAT WE CANNOT RELEASE THE AUSTRALIAN DOCUMENT, EVEN IN REDACTED FORM, WITHOUT AUSTRALIAN PERMISSION; FURTHER, THAT IF WE SEEK AND ARE DENIED PERMISSION AND THE BOARD NONETHELESS PROCEEDS WITH THE DECLASSIFICATION, IT WILL HAVE A TREMENDOUS NEGATIVE IMPACT ON OUR RELATIONSHIP WITH THE AUSTRALIAN SERVICES. IN SUM, OUR GOING-IN POSITION IS WE WANT TO AVOID RAISING THE SPECTER WITH THE AUSSIES THAT THE AGENCY MAY HAVE TROUBLE PROTECTING THEIR SECRETS. IF THE BOARD TURNS DOWN OUR INITIAL PROPOSAL AND INSISTS WE SEEK AUSTRALIAN PERMISSION TO DECLASSIFY, WE WILL DO SO. IN SUCH AN EVENT, OUR LEGAL PEOPLE BELIEVE A STRONGLY-WORDED DOCUMENT FROM THE AUSTRALIANS REFUSING PERMISSION WOULD PROBABLY PERSUADE THE BOARD NOT TO RELEASE THE AUSTRALIAN DOCUMENT. WE WILL KEEP YOU ADVISED ON HOW THIS IS PROGRESSING AND WOULD APPRECIATE ANY FURTHER GRIST FOR THE MILL AS WE CRAFT OUR MEMO TO THE BOARD AS WELL AS THE TEXT OF THE AUSTRALIAN DEMARCHE ON DECLASSIFICATION LEGISLATION.

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